

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

STEVEN D. PATTON,

3:09-CV-01051-HU

Petitioner,

ORDER

v.

D. MILLS,

Respondent.

BROWN, Judge.

Magistrate Judge Dennis James Hubel issued Findings and Recommendation (#34) on August 22, 2011, in which he recommended the Court deny Petitioner Steven D. Patton's Petition (#2) for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 and dismiss this matter with prejudice. Petitioner filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003)(*en banc*); *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9<sup>th</sup> Cir. 1988).

In his Objections, Petitioner reiterates the arguments contained in his Petition for Writ of Habeas Corpus, Memorandum in Support of Petition, and Amended Memorandum in Support of Petition. This Court has carefully considered Petitioner's Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

#### **CONCLUSION**

The Court **ADOPTS** Magistrate Judge Hubel's Findings and Recommendation (#34), **DENIES** the Petition (#2) for Writ of Habeas Corpus and **DISMISSES** this matter **with prejudice**.

In addition, the Court concludes Petitioner has made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2). Accordingly, the Court issues a certificate of appealability as to whether Petitioner fairly presented his ineffective assistance of counsel claims to

the state courts and whether Petitioner was denied effective assistance of counsel.

IT IS SO ORDERED.

DATED this 1<sup>st</sup> day of December, 2011.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge